Internal Revenue Service Criminal Investigation

Tax Fraud Alert

Nonfiler Enforcement

www.irs.gov IRS Keyword: Fraud Fiscal Year 2004

Overview Text Only .htm

Taxpayers who fail to file income tax returns and therefore stop paying income tax, pose a serious threat to tax administration and the American economy. Their actions undermine public confidence in the Service's ability to administer the tax laws fairly and effectively.

Criminal Investigation's (CI) role in combating the area of nonfiling is that of outreach, education and enforcing the tax laws if they have been violated. It is understood that there are those who will not respond to outreach efforts and simply refuse to comply with the law. For individuals who deliberately fail to comply with their obligation to file and pay taxes, CI has devoted resources to identify these individuals and in the most egregious cases, criminal prosecution is recommended. CI currently devotes approximately 15% of it's direct investigative time to the non-filers effort. The CI investigation and United States Attorney's office prosecution of flagrant non-filer cases and the publicity relating to these prosecutions is an important compliance tool.

Who Must File?

All citizens must comply with the requirements of the tax law to file returns and pay taxes. Fortunately, the vast majority of Americans recognize their civic duty and voluntarily comply with their tax filing obligation. Whether because of an inability to pay or severe procrastination, some citizens drop out of the tax system. The IRS has made attempts to make it easier for persons to voluntarily comply with the tax laws and to bring themselves current on any outstanding filings or tax due. Assistance is provided to those persons to resolve issues that caused them to drop out of the tax system and bring them back into compliance.

Publication 501, Exemptions, Standard Deductions and Filing Information, discusses some tax rules that affect every person who may have to file a federal income tax return. It answers some basic questions: who must file; who should file; what filing status to use; how many exemptions to claim; and the amount of the standard deduction.

The first section of this publication explains who must file an income tax return. If you have little or no gross income, reading this section will help you decide if you have to file a return. The second section is about who should file a return. Reading this section will help you decide if you should file a return, even if you are not required to do so. The third section helps you determine which filing status to use. Filing status is important in determining whether you must file a return, your standard deduction, and your tax rate. It also helps determine what credits you may be entitled to. The fourth section discusses exemptions, which reduce your taxable income. The discussions include the social security number requirement for dependents, the rules for multiple support agreements, and the rules for divorced or separated parents.

Tax Tip 2003-02, Who Must File a Tax Return . The law does require you to file a tax return if your income is above a certain level.

Frivolous Nonfilers

When the 16th Amendment to the Constitution was ratified (February 3, 1913) giving Congress the power "to lay and collect taxes on incomes" citizens began arguing that it was not properly ratified and income taxes are illegal. The Courts have repeatedly rejected their argument as frivolous, but unfortunately, some citizens continue to raise arguments in spite of the fact that they have no basis in law. Unscrupulous promoters and their followers have long employed frivolous arguments concerning the legality of the income tax as pretexts to enrich themselves or evade their taxes. Their motivation is usually monetary, not some legitimate purpose or belief.

Anti-taxation groups have been around for a long time. Some using the frivolous argument mentioned here. These groups are small but local. In the past, organizations like Your Heritage Protection Society, The Save a Patriot Society, The Pilot Connection, and the Freeman all attracted followings. Though the leadership of these movements used different arguments to gain followers, they all share one thing in common; they received substantial sentences in a federal prison for their activities. Their followers also paid a steep price for following bad advice. Some were prosecuted, many more were involved in years of litigation and ultimately had to pay all taxes owed along with penalties and interest.

IRS Warns of Frivolous Tax Arguments

The IRS and Treasury have issued notices warning taxpayers that if returns are filed under the theory that U.S. citizens and residents aren't subject to tax on their wages and other income earned or derived within the United States, they may be subject to penalties. This argument is known as the "zero tax theory" and is possibly known by other names. Despite all the warnings about this and other frivolous arguments, some taxpayers insist on presenting frivolous arguments in court. The law allows the courts to impose a penalty of up to $25,000 when the court comes to any of three conclusions:

- a taxpayer instituted a proceeding primarily for delay,
- a position is frivolous or groundless, or
- a taxpayer unreasonably failed to pursue administrative remedies.

On March 29, 2004, a press release entitled, " Stiff Court Penalties for Frivolous Appeals to Delay IRS Collections" was issued. This release summarized how the U.S. Tax Court has increased the number of penalties which had been assessed for previous years and provides a list of cases and penalties assessed from March 2003 to March 2004.

On February 12, 2003, the IRS issued a press release titled, " IRS Again Updates Web Item Debunking Frivolous Tax Arguments ." The release announces that the Internal Revenue Service has again updated its Web site item that addresses false arguments about the legality of not paying taxes or filing returns. The revisions add several cases cited by the courts in 2002 and respond to one additional argument, making a total of 21 frivolous contentions that are addressed "The Truth about Frivolous Tax Arguments"

Department of Justice Issues Injunction

The Department of Justice has issued several injunctions against promoters of illegal tax plans or shelters that urge taxpayers to violate the tax laws. We have put together a table of the most recent Department of Justice press releases on civil and criminal actions against promoters of schemes, scams and cons. The links to the articles will take you to the Department of Justice Press Release website.

Beware of Employment Tax Schemes

Currently, the same arguments concerning the legality of the tax system are being used in an attempt to convince employers they do not have to withhold employment taxes.

Employment Tax evasions have serious consequences not only for the employers but the employees as well. Employers are subject to both criminal and civil sanctions but employees also suffer because as a result of their employer's actions they may not qualify for social security, Medicare, or unemployment benefits (or they may qualify for reduced benefits only). The health of these programs depends on everyone paying their fair share.

Some Arguments

Complicated arguments against the American tax system are built by stringing together unrelated ideas plucked from widely conflicting court rulings, dictionary definitions, government regulations and other sources. The Truth about Frivolous Tax Arguments addresses false arguments about the legality of not paying taxes or filing returns. Some of the most popular anti-taxation arguments include the following:

Constitutional Argument - Filing an IRS Form 1040 violates the Fifth Amendment right against self-incrimination or the Fourth Amendment right to privacy.

> **The Truth:** The courts have consistently held that disclosure of the type of routine financial information required on a tax return does not incriminate an individual or violate the right to privacy.

Compensation Argument - Wages, tips and other compensation received for personal services are not income because there is allegedly no taxable gain when a person "exchanges" labor for money.

> **The Truth:** The Internal Revenue Code defines gross income as income from whatever source derived and includes compensation for services.

Sixteenth Amendment Argument - The Constitutional Amendment establishing the basis for income tax was never properly ratified.

> **The Truth:** The 16th Amendment was properly ratified in 1913, and it states "The Congress shall have power to lay and collect taxes on incomes, from whatever source derived, without apportionment among the several States, and without regard to any census or enumeration."

Religious Arguments - Individuals invoke the Freedom of Religion clause of the First Amendment by taking a vow of poverty or by fraudulently claiming charitable contributions of 50% or more of their adjusted gross income.

> **The Truth:** Taking a purported vow of poverty or claiming fraudulent contributions to filter income through a church is not legal. Many fraudulent religious organizations use funds for personal expenses.

Internal Revenue Code Arguments -

1. There is no Internal Revenue Code that imposes taxes;
2. only "individuals" are required to pay taxes; or
3. IRS can only assess taxes against people who file returns; income taxes are voluntary

> **The Truth:** The tax law is found in Title 26 of the United States Code. The requirement to file an income tax return is not voluntary and it is clearly set forth in the Internal Revenue Code (IRC) Sections 6011(a), 6012(a), et seq., and 6072(a). IRS was established July 1, 1862 by an act of Congress. Our system of taxation allows taxpayers to determine the correct amount of tax and complete the appropriate forms "voluntarily" rather than have the government do it for them. However, any taxpayer whose income falls below the statutory amount, does not have to file a return.

Forming a Trust Argument - Forming a business trust to hold your income and assets will avoid taxes. A family estate trust will allow you to reduce or eliminate your tax liability.

> **The Truth:** Although there are legitimate trusts and legitimate reasons why individuals establish trusts, establishing a trust, foreign or domestic, for the sole purpose of hiding your income and assets from taxation is illegal and will not absolve you of your tax liability. The underlying claims for many "untaxing" trust packages rely on other frivolous arguments--arguments that have

subjected promoters, as well as willing participants, to criminal penalties. See IRS Publication 2193, "Should Your Financial Portfolio Include "Too Good To Be True? ""

Some American citizens use these and other arguments advocating non-compliance with the tax laws. Don’t be misled. Inspect promotional material carefully. Aside from being false and misleading, it often contains elaborate disclaimers such as "this report is offered as a vehicle for discussion and debate and for general informational purposes only. It does not constitute legal or professional advice and should not be relied on as a substitute for proper research and inquiries into original sources of authority." Many of these "tax experts" don’t even follow their own advice but choose to file and pay their own taxes.

The IRS will:

1. Assist taxpayers who have been misled to correct their returns, and
2. Vigorously pursue prosecution and prison sentences for individuals who violate the tax laws.

Statistical Data

Since actions on a specific investigation may cross fiscal years, the data shown in cases initiated may not always represent the same universe of cases shown in other actions within the same fiscal year. The following nonfiler statistics represent Criminal Investigation's (CI) efforts in the past three full fiscal years:

Nonfiler Statistics	FY 2004	FY 2003	FY 2002
Investigations Initiated	417	536	503
Prosecution Recommendations	317	302	244
Indictments//Informations	277	234	233
Sentenced	194	218	218
Incarceration Rate*	92.3%	81.7%	88.1%
Avg. Months to Serve	36	40	49

*Incarceration may include prison time, home confinement, electronic monitoring, or a combination thereof.

Examples of Nonfiler Investigations

The following examples of fraud investigations are excerpts from public record documents on file in the court records in the judicial district in which the cases were prosecuted.

Tennessee Resident Sentenced in Tax Case

On December 1, 2004, in Chattanooga, TN, it was announced that Thomas Gibson, 34, of Riceville, Tennessee, was sentenced to serve 6 months home detention, followed by 2 years of probation.

Gibson pled guilty on September 1, 2004, to one count of failing to file an income tax return with the Internal Revenue Service for calendar year 2000. According to an information filed on August 5, 2004, Gibson had received gross income of $1,121,008 during that year, requiring him to file an income tax return by April 15, 2001. The information charges that Gibson failed to file such a return.

According to the plea agreement also filed on August 5, 2004, Gibson has worked as a painting and construction contractor since 1993. He admitted that he failed to file tax returns for 1998 through 2001, and "knew this day was coming if he had not taken care of his taxes." The plea agreement breaks down Gibson's income and deductions for each of those years where he did not file a return. Gibson's total taxable income for 1998 through 2001 is approximately $554,421. The plea agreement also states that Gibson has now filed all returns for these years and has fully paid the taxes due for each.

Former Cape Cod Physician Sentenced On Tax Charges

On November 16, 2004 in Boston, Massachusetts, Kenneth E. Smith, a former Centerville physician was sentenced in connection with tax offenses involving his failure to file individual income tax returns in 1997, 1998 and 1999 despite earning more than $800,000 in gross income during those years.Smith, formerly of Osterville and Centerville, Massachusetts, and currently of Hilton Head, South Carolina, was sentenced to one year in prison, to be followed by one year of supervised release.
Smith pleaded guilty on June 15, 2004 to a three-count Information charging him with failing to file individual income tax returns in 1997, 1998 and 1999. Smith was a physician who owned and operated a Cape Cod-based medical practice named Hyannis OB-GYN Associates, P.C. The combined amount of Smith's gross income over the three-year period exceeded $800,000. Notwithstanding his receipt of that income, Smith did not file tax returns timely reporting his income, nor did he pay the taxes, an approximate total of $175,000, that were due and owing on the income.

Michigan Couple Sentenced for Tax Fraud

On September 27, 2004, in Grand Rapids, MI, Andrew Stuart Ouwenga and Karen Ann Ouwenga were sentenced following a May 26, 2004, jury conviction on several tax-related felony offenses. Andrew Ouwenga received 60 months imprisonment and Karen Ouwenga received 51 months imprisonment, which are each followed by two years' supervised release. They must also cooperate with the Internal Revenue Service, file back tax returns and make arrangements to pay all taxes due and owing, along with any interest and penalties. They must also pay court cost of $5,016. The Ouwengas were convicted of conspiracy to defraud the United States by impeding and obstructing the lawful functions of the Internal Revenue Service, evading their 1997 federal income tax, and two counts of willfully and unlawfully disobeying a grand jury subpoena. In addition, Andrew Ouwenga was also found guilty on three counts of tax evasion involving his 1998, 1999, and 2000 tax years. The Ouwengas' accountant prepared their 1994 federal income tax return, which claimed more than $75,000 in income, however, the defendants instead filed a frivolous tax return claiming they had no income and requested a tax refund of their 1994 withholdings of more than $10,000. Andrew Ouwenga informed his accountant that he would not file tax returns or pay income taxes because "the Sixteenth Amendment was never ratified." Despite gross deposits of over $6.3 million and gross business receipts of $1.7 million into their bank accounts, the Ouwengas failed to file their tax returns. From 1993 through 1999, the Ouwengas created at least nine sham trusts, which enabled them to conduct their personal and business affairs while evading their income tax obligation.

Oklahoman Sentenced to Over Nine Years for Violations of Tax Evasion, Bank Fraud, and Securities Fraud

On September 1, 2004, in Tulsa, Oklahoma Eddy L. Patterson was sentenced to 110 months in federal prison, and ordered to pay a money judgment of $3,476,936 for his conviction of 27 counts involving conspiracy, filing false tax returns, tax evasion, bank fraud, and securities fraud. The criminal conviction of bank fraud and securities fraud are in connection with Patterson’s position as co-founder and chief executive officer (CEO) of National Environmental Service Company (NESCO) of Tulsa, Oklahoma. Patterson’s tax fraud convictions include a variety of criminal acts involving the filing of false statements in income tax returns for the years 1993 and 1995, and failing to file personal federal income tax returns and failing to pay personal federal income tax returns for the years 1996 to 2000. During the course of the conspiracy, Eddy and Judith Patterson sent letters to the IRS renouncing their citizenship of the United States and claiming the IRS did not have jurisdiction over them.

Rainbow City Man Sentenced on Federal Fraud Charges

On August 24, 2004, in Birmingham, AL, Thomas E. Pike was sentenced to 30 months in prison, followed by five years supervised release, and ordered to make restitution to his former employer, Anesthesia Associates in the amount of $1,375,000. Pike was convicted on June 4, 2004 of five counts of tax evasion, one count of executing a scheme to defraud a federally insured bank, and one count of embezzling money from the pension plan of his employer. Pike was sentenced on tax evasion for the calendar years 1997 through 2001. The taxable income total for those four years was approximately $900,000. Pike also conducted a bank fraud scheme by means of false statements and representations in connection with loan applications to Regions Bank. The total amount of loans based upon these false representations was approximately $500,000. Pike also embezzled and converted to his own use money from the pension plan of his employer, Anesthesia Associates.

Law Partners Sentenced for Failure to File Returns

On July 30, 2004, James G. Madden and William E. Sisler both of Freeport, Illinois, were sentenced to 12 months and 3 months respectively for failing to file federal personal income tax returns. Madden and Sisler who were Freeport law partners. Each pleaded guilty in separate cases on May 26, 2004.

In pleading guilty, Madden admitted that he had not filed a federal personal income tax return for 11 years from 1991 through 2001, despite gross income of at least $802,642 for those years. In pleading guilty, Sisler admitted that he had not filed a federal personal income tax return for three years from 1997 through 1999, despite gross income of at least $285,113 for those years. Both Madden and Sisler acknowledged that following each tax year, they would separately file for an automatic extension of time to file their returns but never would actually file those returns or pay the tax due and owing. In addition to the prison time, the court order one year supervised release following release from prison for each, $500 to pay for costs of prosecution for each and a $3,000 fine for Sisler.

Contractor Sentenced in Tax Evasion Case

On July 27, 2004, in San Francisco, CA, Daren M. Lasky was sentenced to two years in prison after pleading guilty to tax evasion on April 6, 2004. Lasky, an independent flooring contractor, admitted he intentionally did not file tax returns reporting the income or pay taxes on the income to the IRS for the tax years 1998 – 2001. Additionally, Lasky admitted to concealing his income from the IRS by arranging for his compensation from the services provided to general contractors to be falsely reported by them to the IRS on Form 1099-Misc paid, not to him, but to non-existent corporations with Employer Identification Numbers which were assigned to others by the IRS. In order to conceal his income and assets from the IRS he used bank accounts opened in other names instead of using his own name or his SSN, so the bank would not report his activities to the IRS. Under the plea agreement Lasky admitted that he had in excess of $480,000 in income and was aware that he had a legal obligation to file tax returns for those years and pay taxes for each of those years.

Accountant Sentenced to 42 Months in Prison

On July 26, 2004, in Detroit, MI, Peter W. Tietenberg was sentenced to 42 months imprisonment, followed by three years supervised release and restitution of over $761,000 paid to his clients. According to court records, from 1998 through 2001, Tietenberg, an accountant, operated Business Financial Consultants, which provided accounting and tax services. During this time period, Tietenberg's clients would submit information so that employee withholdings, social security, and medicare taxes could be calculated. After determining the amount of taxes due Tietenberg would transmit payroll register forms via facsimile, indicating the clients' taxes due and owing. Tietenberg directed his clients to write checks, payable to Business Financial Consultants, so that he could make payment to the Internal Revenue Service on their behalf. Instead of making the required payments to the IRS, Tietenberg converted the funds to his own use, which totaled over $761,000. From 1998 through 2001, Tietenberg also failed to file his own personal tax returns, which included the failure to report over $390,000 in gross income on his 2000 federal tax return.

151 Month Sentence Received

On July 20, 2004 in Akron, Ohio, Gary Harris was sentenced to 151 months' imprisonment, to be followed by 3 years' supervised release, and a $95,000 fine. At trial, the evidence proved the defendants used a maze of trusts and corporations to try to hide approximately $18 million in income generated by various businesses they controlled, including historic Conneaut Lake Park in Crawford County, Pennsylvania. Between January 1, 1994, and July 8, 2003, they paid little or no taxes on the income earned.

Nonetheless. Mr. Harris lived lavishly, acquired several homes, a jet way for his ranch in Conneaut, and an antique Mercedes sports car which he claimed was worth $250,000.

Mr. Harris has been in federal custody since his arrest in July 2003. He was convicted of tax evasion for tax years 1987, 1989, and 1990. In addition, between 1998 and 2002, when Mr. Harris was in federal prison after convictions for racketeering and income tax evasion, Mr. Kotula and Ms. Schwentker Harris kept Mr. Harris' businesses running and continued to operate this illegal conspiracy.

South Carolina CPA Sentenced

On July 14, 2004, Henry F. Specht was sentenced to three months in prison for for failing fo file his corporate and personal income tax returns for 1997, 1998 and 1999. Specht is a CPA licensed in the state of South Carolina. He is the sole owner and operator of the CPA firm, H.F. Specht and Associates, PA in Myrtle Beach, South Carolina. During the investigation, Specht made false statements to the IRS and then provided copies of purportedly filed returns to the agent in charge of the investigation. The investigation concluded that Specht's tax due and owing for the 1997, 1998 and 1999 years were over $35,000.

After being released from prison, Specht will serve 1 year of supervised release with home confinement and electronic monitoring for the first six months.

Ava Man Sentenced for Obstructing the IRS

On July 1, 2004, in Springfield, MO, Roy Eugene Waters was sentenced to eight years and one month in federal prison without parole. The court also ordered Waters to pay a $15,000 fine and to cooperate with the IRS in the payment of all tax liabilities owed. Waters was convicted of obstructing the Internal Revenue Service in the collection of federal taxes owed to the government and for structuring currency transactions. Beginning in 1995, Waters, who did business as Ava Greenhouses, conducted significant greenhouse business with cash and cashier's checks. Waters was found guilty of using threats of force to obstruct the administration of the internal revenue laws of the United States, including the determination, assessment and collection of Waters' federal income tax liabilities for 1991, 1992 and 1993. Waters threatened to defend his property with guns against seizure by the IRS, and threatened to commit suicide. In an effort to intimidate and interfere with the IRS collection process, Waters also filed a series of frivolous lawsuits against the IRS. He placed notices in local newspapers threatening to sue anyone who bid on property seized by the IRS, claiming that intruders may be prosecuted, or the sale was unlawful. Waters was also found guilty of eight separate counts of structuring currency transactions at several local financial institutions for the purpose of evading the federal reporting requirement. Graves explained that federal law requires financial institutions to report any currency transactions in excess of $10,000. Waters conducted 35 financial transactions from June 23, 1998, through Oct. 11, 2000, for the purpose of evading the federal reporting requirement.

Ohio Couple Sentenced for Conspiracy to Commit Tax Fraud

On June 29, 2004, Phillip and Joanne Caldwell of Lebanon, Ohio, were sentenced to 24 months and 12 months, respectively, for their conspiracy to defraud the United States for the purposes of committing tax fraud from the years 1999 to 2003. The Caldwell's conspired with each other and co-defendant John Huber, of Dayton, Ohio, to defraud the United States for the purposes of impeding and impairing the IRS by, among other things, concealing Joanne Caldwell's income through the use of nominee companies, trusts and trustees. In addition, the Caldwells failed to file individual income tax returns reporting the income they earned during the years 1993 through 2001; prepared and submitted W-4 forms to their employer during the years 1995 and 1996 falsely claiming exempt status without a legal or factual basis; used cash extensively in an effort to conceal their income from the IRS from 1993 to 2001; joined The Freedom Connection in 1993, a well-known tax protest organization operating out of the Southern District of Ohio, and operated by Thomas Jeff Frisby who they knew was later convicted of tax crimes in Cincinnati; closed all their interest bearing personal bank accounts, and attempted to revoke their social security numbers with the Social Security Administration, and their taxpayer status with the IRS.

Both Phillip and Joanne Caldwell also received three years probation and ordered to pay restitution; Phillip $105,469 and Joanne $100,926.

Former Franklin Businessman Sentenced for Tax Offenses, Reports U.S. Attorney

On June 14, 2004, in Boston, MA, Michael Schlevenick was sentenced to 15 months in prison, to be followed by 2 years of supervised release. Schlevenick pleaded guilty on March 10, 2004 to a fourteen-count Indictment charging him with failure to account for, and pay, withholding taxes, and failure to file individual returns. Schlevenick, a former Franklin business owner failed to account for and pay over to the Internal Revenue Service more than $175,000 in federal income, social security and Medicare taxes that he withheld from the paychecks of his employees during the years 1997 to 1999. He was also sentenced for having failed to file individual income tax returns despite earning more than $500,000 in gross income over the same time period.

Promoter of Sham Trusts Pleads Guilty to Tax Fraud Charges in Arizona

On June 7, 2004, in Phoenix, AZ, Mark D. Poseley pleaded guilty to conspiracy to defraud the Internal Revenue Service for his role in marketing bogus trusts through an organization known as Innovative Financial Consultants (IFC). Poseley also pleaded guilty to willfully failing to file his 2000 income tax return, despite having earned substantial income from his work with IFC. Poseley admitted he worked as an IFC salesman and sold both onshore and offshore trust packages. He admitted that he falsely represented to taxpayers that they could lawfully avoid paying income taxes by placing their income and assets into trusts, despite remaining as the trusts' "managing directors." Poseley admitted he ignored written publications from the IRS and other sources which directly contradicted the false claims he made.

Former IRS Employee Sentenced on Fraud and Tax Evasion Charges

On June 3, 2004, in Minneapolis, MN, Sandra Jean Valencia was sentenced to 33 months in prison, followed by three years supervised release and ordered to pay $605,203 in restitution. Valencia pleaded guilty to mail fraud, wire fraud and tax evasion. Appointed by her grandmother to take care of her financial affairs, Valencia admitted in court that she used her positions under the power of attorney and as trustee, from 1997 through 2000, to transfer the vast majority of her grandmother's assets to herself. Valencia depleted her grandmother's stock holdings, sold 76 acres of her farmland and her household belongings, and emptied her bank accounts. Valencia also deposited approximately $41,000 of her grandmother's life insurance proceeds into her own bank account. Valencia admitted to evading income taxes for calendar years 1997 through 2000.

Nebraska Tax Cheat Sentenced to Prison - Manager of Popular "Barry's Bar and Grill" Failed to Pay Employment Taxes

On May 21, 2004, in Omaha, NE, Michael Dane Webb was sentenced to serve five months in prison, followed by five months of home detention. Thereafter, Webb will be under court supervision for an additional three years. On February 27, 2004, Webb pled guilty to a felony charge of willfully failing to account for and pay over employment taxes. Webb admitted in his plea agreement that he conducted business through Barry Good, Inc., doing business as Barry's Bar and Grill in Lincoln, Nebraska. He also admitted he had withheld from his employees' wages, Social Security, Medicare, and income taxes, but did not report, deposit or pay over those withholdings during 1996, 1997 and 1998. The government also alleged that Webb had conducted the same type of scheme at another bar, Barry's West, located in Scottsbluff, Nebraska. Webb admitted he had between 60 and 70 employees during those years. His three-year scheme allowed him to accumulate from their wages approximately $120,000 that he was required to pay to the IRS on behalf of his employees. Instead, he kept it for his own use.

Business Owner Sentenced for Tax Evasion

On May 7, 2004, in Wilmington, DE, Donald L. Donovan was sentenced to 36 months in prison, followed by three years supervised release and ordered to pay a fine of $7,500, the cost of prosecution, and all taxes, interest, and penalties to the IRS. Donovan was convicted in January 2004 of four counts of attempted tax evasion and four counts of willful failure to file an income tax return for the calendar years 1996 through 1999. In addition to failing to file tax returns for 1996 through 1999 Donovan took steps to conceal his income from the IRS, including using a personal bank account that listed a fictitious social security number, opening a bank account and post office box under a fictitious name, and providing a customer with a false social security number for use on a Form 1099. In convicting Donavan the jury rejected his defense that the federal income tax laws do not apply to him.

Pinellas County Man Sentenced for Tax Evasion Scheme

On May 7, 2004, in Tampa, FL, William Tiner was sentenced to five years' in prison, to be followed by three years supervised release. Tiner was also ordered to pay restitution to the Internal Revenue Service of $928,864 and imposed a fine of $25,000. Tiner was convicted of four counts of income tax evasion and three counts of filing false corporate income tax returns. Tiner purchased the AEGIS trust system promoted out of Chicago, IL. He then used a series of domestic and foreign companies to divert and conceal corporate profits in order to evade the payment of taxes on those profits. As a result of these actions, Tiner failed to report in excess of $2.5 million in income between 1996 and 1999 and thus evaded the payment of over $900,000 in income taxes.

Businessman Sentenced to Seven Years in Prison

On April 30, 2004, in Dallas, Texas, Richard M. Simkanin, former owner of Arrow Custom Plastics, was sentenced to seven years in prison and ordered to pay over $300,000 in restitution. Simkanin was convicted on January 29, 2004, on 29 counts of various tax violations. According to evidence presented in court, Simkanin refused to withhold taxes from his employees' paychecks despite warnings from Simkanin's bookkeeper and two members of an accounting firm who told Simkanin it was illegal to refuse to collect employment taxes. By not withholding taxes during the period 2000 through 2002, Simkanin was able to retain over $175,000 in taxes lawfully due to the IRS. Testimony at trial indicated Simkanin also filed a $235,000 false claim for a refund in taxes already collected for 1997 through 1999.

Tax Cheaters Headed to Prison and will Pay Government $570,000

On April 1, 2004, Helen M. Smith and her brother Leroy Sbrusch were sentenced to serve two years in federal prison for tax evasion, failure to file returns, and conspiracy to defraud the IRS. On Wednesday, March 24, codefendant Ken Smith was sentenced to serve 15 months for his role in the conspiracy. All three defendants were convicted of conspiracy to defraud the IRS. Helen Smith and Leroy Sbrusch were also each convicted of failure to file 1996, 1997, and 1998 income tax returns, and also of evading Helen Smith's 1998 income taxes. Sbrusch was also convicted of one count of structuring financial transactions to avoid currency transaction reporting requirements in 1998. Helen Smith and Leroy Sbrusch were ordered to pay over $485,000 in restitution to the United States for back taxes, fined each of them $25,000, and ordered them to pay over $35,000 in costs of prosecution. After serving their prison terms, each defendant will be on supervised release for three years, and will be required to file tax returns and cooperate with IRS examinations of their tax liability.

The evidence at trial showed that Helen Smith owned two laundromats. Her gross income was over $440,000 for 1996, over $540,000 for 1997, and over $700,000 for 1998. Despite this income, she failed to file a tax return for any of these years, or any year since. Neither Helen Smith nor Leroy Sbrusch had in fact filed a return since 1990. After the sale of Wasilla Wash Day for $700,000 in April 1998, the evidence showed that the defendants engaged in a complicated scheme to launder the profits to evade collection by the IRS. The three defendants used various means to conceal the proceeds, including the purchase of $45,000 in gold and silver under a third-party name, the purchase of land in Texas under false names, and simply having large-denomination cashier's checks issued to nonexistent entities and keeping them in their office for six months to a year. Sbrusch's structuring conviction arose from his withdrawal of $8,000 cash on April 15, 1998, followed by withdrawals of $8,500 on April 17 and $7,300 on April 18. Sbrusch testified that he and Helen Smith attended seminars and purchased books offered by

Southern California tax activist Lynne Meredith and her organization, “We the People.” Sbrusch admitted purchasing “trusts” from Meredith that were used to hold assets purchased with the proceeds of the Wasilla Wash Day sale.

Readyville Man Failed to Pay Taxes

On March 12, 2004, in Nashville, TN, Rickey Paul Brunet was sentenced to serve 27 months in prison, followed by three years of supervised release after a jury convicted him on four counts of income tax evasion. Brunet was also ordered to pay all back taxes owed for 1995 through 1998 in the amount of $98,608.86 to IRS and to file tax returns for years 1999 through 2002 as a special condition of his supervised release.

Testimony during the trial established that Brunet, a computer aided design draftsman, failed to file income tax returns with the IRS for calendar years 1996, 1997 and 1998. Additionally, Brunet attempted to cause his social number to be concealed from the IRS and filed an “exempt” Form W-4 with a company, claiming he was exempt from federal withholding. Brunet was also convicted of income tax evasion for tax year 1995 for attempting to evade or defeat the payment of a large part of the income tax due to the United States. Evidence presented during the trial showed that shortly after receiving a tax assessment notification from the IRS, Brunet caused the title to his personal residence to be transferred to “The Home Trust” in an attempt to prevent IRS from levying or seizing the home to satisfy his tax debt.

Brunet also transferred the title of two vehicles to “The Partnership Trust” to also evade IRS collection efforts. Brunet testified during the trial that in mid 1995 he joined a group named Save-A-Patriot Fellowship, an organization that questions the legal interpretation of the tax code, and began researching the tax law. He told the jurors that he could not find any information that would lead him to conclude that the Internal Revenue Code made him liable to file income tax returns or pay taxes. The courts have repeatedly rejected these arguments as frivolous. Other individuals from this Save-A-Patriot Fellowship Organization have been convicted of federal tax crimes and have served prison sentences. Brunet is to report to prison on April 12, 2004.

San Diego Man Sentenced for Tax Evasion

On March 3, 2004, in San Diego, CA, Francis Manfred was sentenced to 21 months in prison for tax evasion. Manfred previously pled guilty to one count of income tax evasion in connection with his role in the San Diego operation of TLC Investment and Trade Company. Manfred was a salesman for TLC which raised funds from individuals by representing that TLC would use the funds to invest in tax lien certificates resulting in a 12-19% annual return. In actuality, TLC used investor funds to make payments to pay undisclosed commissions, pay returns to other investors, and pay TLC's overhead. As a result of these misrepresentations, TLC raised over $8 million from investors. Over a three-year period, Manfred failed to report commission income he received from TLC in excess of over $1 million. This resulted in a tax loss to the government of $476,364 which Manfred was ordered by the court to pay to the Internal Revenue Service.

California Woman Sentenced for Failing to File Form 8300

On March 3, 2004, the United States Attorney's Office for the Northern District of California announced that Sandra Lee Ross, was sentenced for failing to file an information return (Form 8300) with the IRS. Ms. Ross, 56, a resident of Redway, California, received a sentence of three years probation with the condition that she serve 12 months of community confinement in the Whatcom County, Washington Jail. The court also imposed a criminal fine of $4,000. United States Attorney’s Press Release

Provo Man Sentenced for Tax Evasion and Mail Fraud

On February 26, 2004, in Salt Lake City, UT, Albert Earl Carter was sentenced to 51 months in prison, followed by three years supervised release and ordered to pay $1,962,371 in restitution. Carter was also ordered to file his 1996 and 1997 tax returns and establish a payment schedule for those liabilities within 30 days. Carter plead guilty to tax evasion and mail fraud for his role in a scheme he devised to defraud investors of their money through an investment program often referred to as a "doubling program" and his efforts to evade paying income tax for the 1996 tax year. Carter not only failed to file his tax return, but also committed acts of evasion, including the use of a VISA card account from an offshore bank to pay personal expenses, by the transfer of money to the VISA card account, and by the transfer of records reflecting income and expenses offshore. Between 1995 and 2000, Carter was "managing director" of Allied International Resources, (AIR) and represented that the company had offices in Utah and Antigua. During this time, Carter and his associates solicited approximately $3,000,000 from investors for the "doubling program." Carter represented that the investment was for a 12-month term, was protected by a guarantee against loss for 108 percent of the investment, and the guarantee was backed by a trust fund of over five times the amount AIR was obligated to pay out. The letter represented, that an investor could expect 200 percent of the investment at the annual anniversary date. Carter admitted he did not inform investors that investor funds brought in through the investor program would be used to pay off other investors –- essentially a Ponzi scheme -– and also used to pay the personal expenses of Carter and operating expenses of AIR.

Massachusetts Investment Adviser Sentenced

On February 24, 2004, Robert C. Sears of Northampton, Massachusetts was sentenced to 3 years and 1 month in prison, to be followed by 3 years of supervised release. Sears was also ordered to pay $267,471 in restitution for defrauding clients of over $1.2 million. SEARS pleaded guilty to wire fraud on September 10, 2003 and in a separate hearing on December 17, 2003, to willful failure to file tax returns. Beginning in February 2000, SEARS, an unregistered investment adviser, misappropriated funds from several clients' brokerage accounts by forging client signatures on Letters of Authorization directing Charles Schwab Co. to transfer client funds to his own corporation and forging client signatures on margin agreements to obtain unauthorized margin loans.

Sears transferred his clients' money to Last Minute Concessions Inc., a Massachusetts corporation of which he was president and co-owner. Last Minute used the fraudulently obtained money to buy a controlling interest in a company developing a golf course near Belchertown, Massachusetts. Last Minute also used money from Sear's clients to buy an interest in a development company which was building a condominium project associated with the golf course.

Sears received substantial income from investments and self-employment during the tax years 1998 and 1999 but never filed income tax returns for those years. SEARS failed to file an income tax return for the 2000 tax year as well.

Business Owner Sentenced for Filing False Return

On February 20, 2004, in Kansas City, MO, Johnny D. Walker was sentenced to one year and one day in prison without parole after pleading guilty to filing a false income tax return for the 2001 calendar year. Walker admitted the he reported gross receipts of $298,634 for the tax year ending December 31, 2001, when his true gross receipts were approximately $359,669. Walker's actions resulted in an unreported income tax of $23,261 and unreported self-employment tax of $14,719.

Sellers of Bogus Tax Advice Program Plead Guilty to Tax Charges

On February 12, 2004, in Washington, DC, John J. Rizzo and his wife Carol A. Rizzo, residents of Phoenix, Arizona, pleaded guilty to charges of conspiracy and willfully failing to file their income tax return. Rizzo also pleaded guilty to willfully aiding and assisting in the preparation of a false income tax return and perjury before the grand jury. The defendants admitted, in their plea agreements that from 1999 to 2001, Mr. Rizzo was a prominent vendor with the Institute of Global Prosperity (IGP). At seminars hosted by IGP, Rizzo promoted the Millennium 2000 Reliance Defense Program (M2K) package to thousands of people at offshore seminars and resulted in more than $4 million in sales. The Rizzos also admitted they provided materials and documentation that purported to prove, among other things, that one could lawfully stop filing income tax returns and cease having income taxes withheld from personal wages based upon the long-rejected notion that the Sixteenth Amendment to the Constitution had not been legally ratified. They further admitted they concealed the income earned from the sales of M2K packages during the period 1999 through 2002, by using a variety of dishonest and deceitful means, including the use of offshore bank accounts and third-party merchant accounts to conduct credit card sales.

Former Hotel Developer Sentenced

On February 2, 2004, in Nashville, TN, Charles V. Covington, former owner and president of OCVOC Investment Holdings, Inc., was sentenced to 30 months in prison followed by 3 years of supervised release. Covington was also ordered to pay restitution to Investment Holdings, Inc., in the amount of $600,000 and to pay IRS back taxes in the amount of $140,278 as a condition of his supervised release. Covington pled guilty on September 5, 2003, to failing to file a federal income tax return for the year 1997 and to mail fraud. Covington was indicted on July 10, 2002, and charged with committing mail fraud, money laundering and failing to file his 1997 U.S. Individual income tax return while receiving in excess of $366,000 in gross income. Covington, while attempting to develop a downtown hotel in Nashville, Tennessee, used that speculative venture to defraud persons who believed that they were investing their funds in the hotel project. Covington used these funds for his personal living expenses, including but not limited to, a down payment on a luxury residence, expensive furnishings for the residence, private jet service for his family, catered birthday dinners for his wife, expensive jewelry and tuition at a private school for his step-daughter.

Former Police Officer Sentenced on Tax Evasion Charges

On January 29, 2004, in Miami, FL, William Bernard Oertwig, Jr., a former Miami-Dade Police Department Officer, was sentenced to 40 months imprisonment followed by three years of supervised release. Oertwig was convicted of six counts of attempting to evade and defeat tax by failing to claim any taxable income from 1996 through 2001. In additional jail time, Oertwig was ordered to pay a $50,000 fine. Oertwig owned Intercontinental Electronic Security System, a burglar alarm installation and monitoring company, and filed false Forms W-4 stating he was exempt from any withholdings. Thereafter, he filed frivolous and false tax returns purporting to owe zero income. Additionally, Oertwig placed all of his assets in numerous abusive trusts in an effort to conceal them from the IRS.

Retired Pilot Sentenced to Prison

On January 20, 2004, in Rockford, IL, Ralph Waldo Kough, a retired commercial pilot, was sentenced to 20 months in prison followed by three years supervised release for evading more than $260,000 in federal income taxes. Kough admitted that he did not file tax returns and did not pay any federal income taxes on his pension income for the years 1995 through 2002. In addition, during 1998 Kough received a lump sum distribution from his 401(k) plan of $583,425.76. Kough admitted that he attempted to conceal his 401(k) distribution from the IRS by 1) depositing the $583,425.76 into four separate bank accounts in three separate states; 2) providing those banks with IRS Forms W-8 which falsely stated he was not a United States Citizen; and 3) withdrawing most of the funds from those accounts in cash amounts $9000 and $9900.

Michigan Man Sentenced in Fraud Case

On January 5, 2004, in Detroit, MI, Peter W. Tietenberg pleaded guilty to wire fraud and failure to file a tax return. According to an information and his plea agreement, from 1998 through 2001, Mr. Tietenberg, an accountant, operated Business Financial Consultants, a business which provided accounting and tax services. During this time period, Tietenberg's clients would submit information so that employee withholdings, social security, and Medicare taxes could be calculated. After determining the amount of taxes due Tietenberg would transmit payroll register forms via facsimile, indicating the clients' taxes due and owing. Tietenberg then directed his clients to write checks, payable to Business Financial Consultants, so that he could make payment to the Internal Revenue Service on their behalf. Instead of making the required payments to the IRS, Tietenberg converted the funds to his own use, which totaled over $750,000. From 1998 through 2001, Tietenberg also failed to file his own personal tax returns, which included the failure to report over $390,000 in gross income on his 2000 federal tax return.

Bogus Sight Drafts Lands 33-Month Term…

In St. Paul, Minnesota on December 16, 2003, Roger Leigh Oehler was sentenced to 33 months in prison after being convicted by a jury in July 2002 on 30 counts of passing fictitious obligations and give counts of submitting false statements to the IRS. From February 1999 to July 2000, Oehler used fraudulent “sight drafts” in an effort to pay debts, obtain money or obtain tax refunds. Oehler wrote nine bogus sight drafts for payment of child support to state agencies and the social services department for his child support obligations. He also wrote fake sight drafts to pay his tax obligations and defraud credit card companies of over $200,000. Oehler was also convicted of filing false 8300 forms with the IRS.

San Diego Return Preparer Sentenced

On December 8, 2003, in San Diego, CA, Roosevelt Kyle was sentenced to 12 months in custody. A jury convicted Kyle for failing to file his personal income tax returns for the years 1995 through 1998. Evidence at trial showed Kyle earned over $300,000 and prepared over 3,000 tax returns, but failed to file his own personal income tax returns. According to evidence presented in court, Kyle promoted tax avoidance seminars, at which he advised clients that they could permanently stop paying income taxes. Kyle also promoted the book entitled, "Vultures in Eagles Clothing" which claims the income tax laws are not applicable to U.S. citizens. This book was written by Lynne Meredith, who is under criminal indictment in the Central District of California for various tax crimes.

Man Sentenced for Evading Over $235,000 in Taxes

On December 3, 2003, in Kansas City, Missouri, Mark A. Fronce was sentenced to 15 months in prison, ordered to pay a $2,000 fine, and ordered to pay $434,522 in back taxes with interest and penalties. Fronce pleaded guilty on June 26, 2003, to one count of tax evasion. By pleading guilty, Fronce admitted that he had taxable income of approximately $565,806 in 1997 and should have paid $235,486 in taxes. Instead, Fronce did not file a tax return and attempted to conceal his true income by diverting his income to "trust" bank accounts.

Longest Prison Term for Tax Offenses in Alaska

On November 21, 2002 in the District of Alaska, Richard Ray Blankenship received the longest sentence ever imposed in Alaska for tax-related crimes. Blankenship was sentenced to eight years and eight months in prison.

Blankenship renounced his US citizenship and social security number and claimed he had no obligation to the Internal Revenue Service. Blankenship has not filed a legitimate tax return since 1994. The indictment filed on June 19, 2002, charged him with willful failure to file returns for 1996, 1997, 1998, 1999 and 2000. The indictment also charged Blankenship with several counts of mailing threatening communications and passing fictitious obligations.

On September 12, 2002, a federal trial jury in Anchorage convicted him of failing to file federal income tax returns, mailing threats to judges and attempting to pay a hospital bill with a fraudulent Unites States Treasury sight draft.

In imposing sentence, Chief United States District Court Judge John Sedwick commented that Blankenship's conduct was among the most selfish he had ever encountered. He likened Blankenship to a recruit who was always out of step with the rest of his company and reminded him of his obligations to pay taxes and obey the law.

Jury Finds Texas Dentist Guilty

On November 20, 2002, in the Eastern District of Texas, Barry Eugene Brooks was sentenced to 21 months in prison after a jury found him guilty of failing to file his 1995, 1996 and 1997 tax returns. According to the Indictment filed on December 4, 2001, Brooks was a self-employed with his principal place of business in Jacksonville, Cherokee County, Texas.

Santa Ana California Car Dealership Owner Pleads Guilty to IRS Charges Related to Cash Transactions

The owner of a car dealership in Santa Ana admitted that he failed to file required forms with the federal government showing that customers purchased cars from him in cash. Nader Noosha, 49, of Newport Beach, California pleaded guilty on November 17, 2003 in Los Angeles to a four-count information that charged him with failing to file currency reports with the IRS and credit card fraud.

Noosha, who owned and operated Pacific Import, admitted in his plea agreement that he sold four automobiles for cash in an amount greater than $10,000 and failed to file the required Form 8300 with the IRS. Court documents show that Noosha sold three cars for cash to IRS undercover agents; a 2000 Mercedes Benz S500 in November 2002 for $62,500; a 2000 BMW 328 in March 2003 for $27,100; and a 1997 Porsche 911 for $79,500. Noosha also admitted to selling a Mercedes Benz E320 in November 2002 to a customer for $30,695, of which Noosha collected $27,000 in cash.

Noosha agreed to forfeit the 1997 Porsche 911 and $89,660 seized from his bank accounts as part of his plea agreement. The credit card fraud relates to Noosha's admission that he obtained and used a credit card under a different name and that he fraudulently obtained seven other credit cards under his name, incurring charges of approximately $36,409.

When Noosha is sentenced before U.S. District Judge Robert M. Takasugi on March 8, 2004, he faces a maximum statutory sentence of 25 years imprisonment and a fine of $1 million.

Owner of Video Stores Failed to Report $1 Million in Income

On November 7, 2002, in Mobile, Alabama, David Eugene Bryan was sentenced to 27 months in prison followed by three years supervised release and ordered to pay restitution in the amount of $414,124 to the U.S. Treasury, after pleading guilty to tax evasion. Bryan failed to file federal income tax returns and report his income from the operation of several video stores for the years 1996 through 2000. Bryan used eight different bank accounts for depositing his gross receipts, but he placed five of those bank accounts in the names of nominees. In addition, he failed to deposit all of the cash receipts from his businesses into these bank accounts. Bryan admitted that he dealt extensively in cash, diverted business income for personal use, and failed to keep accurate books and records of his business. As a result, he intentionally failed to report approximately $1,019,034 in taxable income and failed to pay approximately $414,124 in federal income taxes.

Optical Owner Sees Jail Time

On November 6, 2003, in St. Paul, MN, Michael F. Marsh, the former owner of Marsh Optical was sentenced on one year and one day imprisonment. Marsh pleaded guilty to failing to file federal income tax returns for the calendar years 1997 – 2000. Marshes total income for those years was $401,371, resulting in a tax loss of approximately $141,559.

Three Sacramentans Sentenced to Lengthy Prison Sentences in Tax Fraud, Investment Fraud and Money Laundering Scheme

On November 4, 2003, in Sacramento, CA, Herbert Arthur Bates, Christopher R. Bates and David Larry Smith were sentenced to lengthy prison terms after being convicted of conspiracy to defraud the United States by impairing and impeding the IRS in the assessment and collection of income taxes, conspiracy to engage in mail and wire fraud, and conspiracy to engage in money laundering. Herbert Bates, Christopher Bates, and David Larry Smith were sentenced to 136 months, 63 months and 151 months in prison, respectively. All three were also ordered to pay restitution in the amount of $1,738,520, a criminal forfeiture of $1,000,000, and serve 36 months of supervised release. Evidence presented at trial proved that the defendants sold a form of trust, which they called an Unincorporated Business Organization (UBO), to approximately 249 investors. The defendants charged between $3,000 and $7,500 for the creation of these UBO's. Herbert Bates and Smith advised clients that they could transfer all of their income and assets to the UBO, and after transferring their income and assets, the clients no longer had to file individual income tax returns nor pay federal income taxes.

Over $1.9 Million in Restitution will be Paid

On October 17, 2002, in Chicago, Illinois, Thomas W. Galuski was sentenced to 38 months in prison. In addition to mail fraud, wire fraud and money laundering, Galuski pled guilty to failure to file income tax returns. Galuski, who was employed as an investment advisor with American Express Financial Advisors, Inc. (AMFA), devised a scheme to defraud his clients. Galuski received money from 12 clients of AMFA for non-existent real estate investments, guaranteeing returns on these investments. Galuski fraudulently acquired $1,949,150 in client's money and used that money to pay gambling losses and other personal expenses. Galuski was ordered at sentencing to make restitution to AMFA in this same amount.

For more summaries, visit www.irs.gov and enter Keyword: Fraud.

Where Do You Report Suspected Tax Fraud Activity?

If you suspect tax fraud or know of an abusive return preparer, you should report this activity to your nearest Internal revenue service office. This information can be communicated by phone or in writing to your local IRS office. You can contact the IRS by phone at 1-800-829-0433.